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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,141	07/30/2003	John J. Giobbi	47079-0107D2	9474

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EXAMINER

ASHBURN, STEVEN L

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 01/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/630,141	GIOBBI, JOHN J.	
	Examiner	Art Unit	
	Steven Ashburn	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 75-82 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 75-82 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/30/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 75-82 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raven et al., U.S. 5,429,361 (Jul. 4, 1995) in view of Sizer.

Claim 75. Raven discloses a player tracking system for a gaming machine wherein data carried on a player's portable data unit is used to access monetary information from the player's monetary account stored at a central host computer, the player's account is associated with the personal identifier; monetary information is transmitted from the central host computer to gaming machine and a game is played on the machine using the transmitted information. *See, e.g., fig. 1-3; col. 1:38-2:3, 10:37-11:62.* When the player is not interacting with the machine, the player tracking system enters an "attract mode" wherein promotional messages are displayed. *See col. 5:15-29.* Upon detection of a player's portable data unit, the device displays personalized information. *See fig. 2.* With regard to the claim, Raven discloses all the limitations except detecting the presence of a passerby proximate to the gaming machine, the passerby not playing the gaming machine, and modifying the operation of the gaming machine in response to detecting the presence of the passerby. As discussed below, this feature would have been obvious to an gaming artisan in view of Sizer.

Sizer discloses an audiovisual marketing machine capable of detecting a portable data unit carried by a person allowing the device to automatically interact with the person within proximity of the machine using personalized information contained on the data unit. *See col. 6:4-17; 16:14-32.* For example, at a trade show or exhibition a person may be given an RF card containing information on the person. *See id.*

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When that passerby approaches a device, the device detects the portable data unit and delivers information to the passerby which is personalized according to the identity information contained on the portable data unit . *See id.*

Sizer's system is directed at the attracting a passerby to interact with point-of-sale devices and storing information tracking their interaction. A casino is merely a specialized type of commercial establishment where the point of sale devices are gaming machines. In view of Sizer, it would have been obvious to one of ordinary skill in the art of gaming devices to modify the player tracking system disclosed by Raven, wherein the machine displays an attract mode to players until it detects a player's portable data unit and then displays personalized information, to add the feature of detecting the presence of a passerby proximate to the gaming machine, the passerby not playing the gaming machine and modifying the operation of the gaming machine in response to detecting the presence of the passerby. As suggested by Sizer, the modification would increase use of the game devices by initiating personalized attraction displays when a passersby is within proximity of the gaming device; and at the same time, collecting statistical information on the interaction to increase the effectiveness of future displays. *See col. 8:6-49, 15:66-16:32, 22:10-36.*

Claim 76. Sizer disclose establishing a wireless transmission link between a first wireless transceiver on the machine and a second wireless transceiver on the passerby. *See col. 6:4-17; 16:14-32.*

Claims 77 and 81. Sizer discloses a portable data unit allowing the identity of the passerby to be determined. *See id.*

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Claims 78, 79 and 82. Sizer discloses inviting the passerby to interact with the machine. Thus, the system suggested by the combination of Raven with Sizer, wherein the machine offers a game suggests inviting the passerby to play the machine.

Claim 80. Raven discloses operating in an attract mode prior to detecting the presence of a player. *See col. 5:15-29.*

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Ashburn whose telephone number is 571-272-4445. The examiner can normally be reached on Monday thru Friday, 8:00 AM to 4:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H Banks can be reached on 571-272-4119. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

s.a.



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